

MATSUDA ET AL. -- 10/602,066
Attorney Docket 008312-0304355

REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

In the Office Action dated July 1, 2005, the Examiner rejected claims 2, 5, 6, and 8, under 35 U.S.C. §103(a), as allegedly being unpatentable over Currello '844 (U.S. Pat. No. 6,503,844) in view of Shell '956 (U.S. Pat. No. 5,429,956).

The Examiner objected to claims 2 and 6 as allegedly lacking clarity. The Examiner also objected to claim 10 but indicated that it would be allowable if rewritten in independent form.

By this Amendment, Applicants have amended claim 2, 6, and 10 to provide a clearer presentation of the claimed invention and have introduced new claims 22-24. Applicants submit that no new matter has been introduced. Because the changes to claims 2 and 6 correct the lack of clarity and claim 10 has been rewritten in independent form, Applicants request the withdrawal of the objections to these claims. Further, as noted by the Examiner, claim 10 is now in condition for allowance.

Applicants respectfully traverse the prior art rejections of the claims, under 35 U.S.C. §103(a), for the reasons presented below.

Independent claim 2, as amended, now positively recites that the first gate side wall insulating film has a first side surface and a second side surface being flush with the first side surface. Claim 2 further recites that the first side surface is opposite to a side surface facing the gate electrode, the second side surface is opposite to a side surface facing the second insulating film portion. These limitations are amply supported by the embodiments disclosed in the Specification (*see, e.g.*, Specification, FIG. 6).

Unlike the claimed invention, there is nothing in the Currello '844 reference that teaches the structure provided by the combination of elements recited by amended

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claim 2. In particular, Currello '844 discloses that a first side surface of the gate side wall insulating film (60) opposite to a side surface facing the second insulating film portion is positioned inward of a first side surface of the gate side wall insulating film (60) opposite to a side surface facing the gate electrode (44). (See, Currello '844: FIG. 3C). Therefore, the first side surface of the gate side wall insulating film (60) is not flush with the second side surface of the gate side wall insulating film (60).

As such, the structure taught by Currello '844 is entirely different from structure recited by claim 2. Moreover, as best understood, the Shell '956 reference does not cure the deficiencies of Currello '844 noted above. As such, none of these references, whether taken alone or in combination, could reasonably be construed to render claim 2 unpatentable.

For at least the reasons noted above, Applicants submit that claim 2 is patentable over the references of record. Accordingly, Applicants respectfully request the immediate withdrawal of the §103(a) rejection of independent claim 2. Moreover, because dependent claims 5, 6, 8, and 22-24 depend directly from claim 2, claims 5, 6, 8, and 22-24 are patentable by virtue of dependency as well as for their additional recitations.

In addition, because claim 10 has been rewritten in independent form, claim 10 is also patentable for the reasons already identified by the Examiner. And, because new claims

All matters having been addressed and in view of the foregoing, Applicants respectfully request the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.


Applicants' Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. Please charge any fees associated with the submission of this paper to Deposit Account Number 033975, Order No. 008312-0304355.

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The Commissioner for Patents is also authorized to credit any over payments to
the above-referenced Deposit Account.

Respectfully submitted,

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